



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

7551 Metro Center Drive, Suite 100, Austin, Texas 78744-1645

(512) 804-4000 | F: (512) 804-4811 | (800) 252-7031 | TDI.texas.gov | @TexasTDI

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

HCA CORPUS CHRISTI MEDICAL CENTER

Respondent Name

GRAY INSURANCE CO INC

MFDR Tracking Number

M4-05-A332

Carrier's Austin Representative

Box Number 19

MFDR Date Received

JULY 12, 2005

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "per stop-loss threshold as total charges exceeds \$40,000.00. Calculation of stop-loss reimbursement is \$88,023.00 (total billed) x (SLRF) 75% = \$66,017.25 total allowable."

Requestor's Supplemental Position Summary Dated July 11, 2005: "per Rule 134.401(c)(6)(A)(i)(iii), once the bill has reached the minimum stop-loss threshold of \$40K, the entire admission will be paid using the stop-loss reimbursement factor ('SLRF') of 75%."

Amount in Dispute: \$62,221.25

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The Requestor asserts it is entitled to reimbursement in the amount of \$66,017.25, which is 75% of total charges. Requestor has not shown entitlement to this alternative, exceptional method of calculating reimbursement and has not otherwise properly calculated the audited charges."

Respondent's Supplemental Position Summary Dated May 23, 2017: "Carrier has previously responded to this dispute upon its initial submission. Carrier maintains its position as outlined in the original response."

Responses Submitted by: Flahive, Ogden & Latson

SUMMARY OF FINDINGS

Disputed Dates	Disputed Services	Amount In Dispute	Amount Due
July 14, 2004 through July 19, 2004	Inpatient Hospital Services	\$62,221.25	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.305 and §133.307, applicable to requests filed on or after January 15, 2007, sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.401, 22 Texas Register 6264, effective August 1, 1997, sets out the fee guidelines for inpatient services rendered in an acute care hospital for the date of admission in dispute.
3. The Third Court of Appeals' November 13, 2008 opinion in *Texas Mutual Insurance Company v. Vista Community Medical Center, LLP*, 275 South Western Reporter Third 538, 550 (Texas Appeals – Austin 2008, petition denied) addressed a challenge to the interpretation of 28 Texas Administrative Code §134.401. The Court concluded that “to be eligible for reimbursement under the Stop-Loss Exception, a hospital must demonstrate that the total audited charges exceed \$40,000 and that an admission involved unusually costly and unusually extensive services.”
4. The services in dispute were reduced / denied by the respondent with the following reason codes:
 - Explanation of Benefits
 - F-Payment based on the assigned Per Diem amount per 1997 Texas Inpatient Hospital Fee Guideline.
 - M-Payment reduced according to fair and reasonable.
 - G-Payment for these services is included in the Per Diem amount.
 - N-DOP is required for all items with a billed amount of \$50.00 or greater.
 - O-Previously recommended amount has not been changed.
 - Z-Preauthorization for the requested treatment(s) and service(s) was denied by the carrier or Forte' prior to these services being rendered.
 - F- Implantables reimbursed at COST + 10%.
 - S-Previously recommended amount has been amended as indicated.
5. Dispute M4-05-A332 History
 - The division originally issued a decision on January 3, 2006.
 - The division issued an Order to Correct Clerical Error to read HCA Corpus Christi Medical Center instead of HCA Conroe Regional Medical Center on January 6, 2006.
 - The dispute decision was appealed to the District Court.
 - The 201st Judicial District remanded the dispute to the division pursuant to an agreed order of remand D-1-GN-06-000406.
 - As a result of the remand order, the dispute was re-docketed at the division's medical fee dispute resolution section on December 15, 2016.
 - M4-05-A332-02 is hereby reviewed.

Issues

1. Did the audited charges exceed \$40,000.00?
2. Did the admission in dispute involve unusually extensive services?
3. Did the admission in dispute involve unusually costly services?
4. Is the requestor entitled to additional reimbursement?

Findings

This dispute relates to inpatient surgical services provided in a hospital setting with reimbursement subject to the provisions of Division rule at 28 Texas Administrative Code §134.401, titled *Acute Care Inpatient Hospital Fee Guideline*, effective August 1, 1997, 22 Texas Register 6264. The Third Court of Appeals' November 13, 2008 opinion in *Texas Mutual Insurance Company v. Vista Community Medical Center, LLP*, 275 South Western Reporter Third 538, 550 (Texas Appeals – Austin 2008, petition denied) addressed a challenge to the interpretation of 28 Texas Administrative Code §134.401. The Court concluded that “to be eligible for reimbursement under the Stop-Loss Exception, a hospital must demonstrate that the total audited charges exceed \$40,000 and that an admission involved unusually costly and unusually extensive services.” Both the requestor and respondent in this case were notified via form letter that the mandate for the decision cited above was issued on January 19, 2011. Each was given the opportunity to supplement their original MDR submission, position or response as applicable. The documentation filed by the requestor and respondent to date will be considered in determining whether the admission in dispute is eligible for reimbursement under the stop-loss method of payment. Consistent with the Third Court of Appeals' November 13, 2008 opinion, the Division will address whether the total audited charges **in this case** exceed \$40,000; whether the admission and disputed services **in this case** are unusually extensive; and whether the admission and disputed services **in this case** are unusually costly. 28 Texas Administrative Code §134.401(c)(2)(C) states, in pertinent part, that “Independent

reimbursement is allowed on a case-by-case basis if the particular case exceeds the stop-loss threshold as described in paragraph (6) of this subsection..." 28 Texas Administrative Code §134.401(c)(6) puts forth the requirements to meet the three factors that will be discussed.

1. 28 Texas Administrative Code §134.401(c) (6) (A) (i) states "to be eligible for stop-loss payment the total audited charges for a hospital admission must exceed \$40,000, the minimum stop-loss threshold." Furthermore, (A) (v) of that same section states "Audited charges are those charges which remain after a bill review by the insurance carrier has been performed." Review of the explanation of benefits issued by the carrier finds that the carrier did not deduct any charges in accordance with §134.401(c) (6) (A) (v); therefore the audited charges equal \$88,023.00. The division concludes that the total audited charges exceed \$40,000.
2. The requestor in its position statement presumes that it is entitled to the stop loss method of payment because the audited charges exceed \$40,000. As noted above, the Third Court of Appeals in its November 13, 2008 opinion rendered judgment to the contrary. The Court concluded that "to be eligible for reimbursement under the Stop-Loss Exception, a hospital must demonstrate that the total audited charges exceed \$40,000 and that an admission involved...unusually extensive services." The requestor failed to demonstrate that the particulars of the admission in dispute constitute unusually extensive services; therefore, the division finds that the requestor did not meet 28 Texas Administrative Code §134.401(c) (6).
3. In regards to whether the services were unusually costly, the requestor presumes that because the bill exceeds \$40,000, the stop loss method of payment should apply. The Third Court of Appeals' November 13, 2008 opinion concluded that in order to be eligible for reimbursement under the stop-loss exception, a hospital must demonstrate that an admission involved unusually costly services thereby affirming 28 Texas Administrative Code §134.401(c)(6) which states that "Stop-loss is an independent reimbursement methodology established to ensure fair and reasonable compensation to the hospital for unusually costly services rendered during treatment to an injured worker." The requestor failed to demonstrate that the particulars of the admission in dispute constitutes unusually costly services; therefore, the division finds that the requestor failed to meet 28 Texas Administrative Code §134.401(c) (6).
4. For the reasons stated above the services in dispute are not eligible for the stop-loss method of reimbursement.

Consequently, the services in dispute may be eligible for reimbursement pursuant to 28 Texas Administrative Code §134.401(c)(1) titled *Standard Per Diem Amount* and §134.401(c)(4) titled *Additional Reimbursements* as follows.

- Division rule at 28 Texas Administrative Code §134.401(c)(3)(ii) states, in pertinent part, that "The applicable Workers' Compensation Standard Per Diem Amount (SPDA) is multiplied by the length of stay (LOS) for admission..." Review of the submitted documentation finds that the length of stay for this admission was four surgical days and one ICU/CCU; however, the documentation supports that the Carrier pre-authorized a length of stay of three days in accordance with 28 Texas Administrative Code Rule §134.600. Therefore the standard per diem amounts of \$1,118.00 and \$1,560.00 apply respectively for the three authorized days, resulting in reimbursement of \$3,796.00.

28 Texas Administrative Code §134.401(c)(4)(A), states "When medically necessary the following services indicated by revenue codes shall be reimbursed at cost to the hospital plus 10%: (i) Implantables (revenue codes 275, 276, and 278), and (ii) Orthotics and prosthetics (revenue code 274)."

A review of the submitted medical bill indicates that the requestor billed revenue code 278 for Implants at \$35,472.00.

The Division finds the total allowable for the implants billed under revenue code 278 is:

Description of Implant per Itemized Statement	QTY.	Cost Per Unit	Cost + 10%
Pedical Screw 6.5 X 45	8	No support for cost/invoice.	\$0.00
Rod 50mm	2	No support for cost/invoice. (An invoice was submitted for 6.0mm TI Hard Rod 50mm dated 3/14/02 and 4/8/03. No documentation that these invoices corresponded to claimant for date of	\$0.00

		service 7/14/04)	
Infuse Bone Graft	2	No support for cost/invoice. (An invoice was submitted for Infuse Bone graft dated 11/19/02. No documentation that these invoices corresponded to claimant for date of service 7/14/04)	\$0.00
Cage 21mm	2	No support for cost/invoice.	\$0.00
TOTAL	14		\$0.00

The division concludes that the total allowable for this admission is \$3,796.00. The respondent issued payment in the amount of \$3,796.00. Based upon the documentation submitted, additional reimbursement cannot be recommended.

Conclusion

For the reasons stated above, the division concludes that the services in dispute are not eligible for the stop-loss method of reimbursement, that a pre-negotiated rate does not apply, and that application of 28 Texas Administrative Code §134.401(c)(1) titled *Standard Per Diem Amount* and §134.401(c)(4) titled *Additional Reimbursements*, results in the total allowable reimbursement. Based upon the documentation submitted, the requestor's Table of Disputed Services, and reimbursement made by the respondent, the amount ordered is \$0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 additional reimbursement for the services in dispute.

Authorized Signature

_____	_____	06/07/2017
Signature	Medical Fee Dispute Resolution Officer	Date

_____	_____	06/07/2017
Signature	Director of Medical Fee Dispute Resolution	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.****

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.